IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT:

THE HON'BLE SRI JUSTICE K.C. BHANU

-

WRIT PETITION No.25207 OF 2003

Between:

B. Bapu Rao, S/o. Venkataiah Kistaiah,
aged about 49 years,

R/o Ramadugu (P) & (M), Karimnagar Dist.

..... PETITIONER

AND

1 The Regional Manager, A.P.S.R.T.C.,
Adilabad Region, Adilabad, Adilabad Dist.

2 The Depot Manager, A.P.S.R.T.C.,
Mancherial Bus Depot, Mancherial,
Adilabad District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ more particularly one in the nature of Writ of mandamus declaring the action of the 2nd respondent in issuing the proceedings No.02/95N(22)/1995-MNCL, dated 02-04-1997, as illegal, arbitrary and unjust and consequently set aside the proceedings No.02/95N(22)/1995-MNCL, dated 02-04-1997, issued by the 2nd respondent.

Counsel for the Petitioner: MR. Y. SUBBA RAO

Counsel for the Respondents: MR. V.T.M. PRASAD

The Court made the following:

ORDER:

Questioning the penalty imposed by the 2nd respondent on the petitioner postponing the annual increment for a period of one year with cumulative effect on future increments by issuing the impugned proceedings No.02/95N(22)/1995-MNCL, dated 02-04-1997, the present writ petition is filed.

Mr. G. Ravi Mohan, learned counsel appearing for the petitioner contended that without conducting any enquiry, major penalty has been imposed on the petitioner, and therefore, the impugned proceedings are liable to be set aside.

On the other hand, learned Standing Counsel appearing for the respondents contended that the disciplinary authority has to take an appropriate decision with regard to punishment, therefore he prays to remand the matter to the disciplinary authority.

For certain irregularities said to have been committed by the petitioner, a charge sheet dated 06-07-1995 was issued to him and he gave an explanation. As the explanation was not satisfactory, the disciplinary authority imposed a major penalty of deferment of annual increment for a period of one year with cumulative effect on future increments. Imposing a major penalty without conducting regular departmental enquiry cannot be sustained under law. Admittedly, no regular departmental enquiry was conducted in this case.

Though it is a matter to be remitted back to the Disciplinary authority for passing appropriate orders, the learned counsel appearing for the petitioner requested this Court to modify the major penalty imposed by the 2nd respondent to that of a minor penalty. As the alleged irregularities have taken place in the year 1995, at this point of time, it is not desirable to remit the matter to the disciplinary authority for conducting any regular departmental enquiry and further more, the petitioner has requested to impose a minor penalty. Therefore, the penalty can be modified in view of the peculiar facts and circumstances of the case.

In the result, the writ petition is disposed of modifying the penalty of deferment of annual increment for a period of one year with cumulative effect on future increments to that of deferment of one annual increment without cumulative effect. In the circumstances, no costs. By virtue of this order, petitioner is not entitled to any monetary benefits, but he is entitled for notional increments from the date of this order.

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K.C. BHANU, J

Date: 05-07-2005.

PV

To

1. The Regional Manager, A.P.S.R.T.C.,
   Adilabad Region, Adilabad Dist.
2. The Depot Manager, APSRTC,
   Mancherial Bus Depot, Mancherial,
   Adilabad Dist.

3. Two 2 C.D copies.